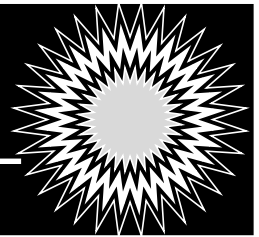


Ethics News

Newsletter of the Indiana State Ethics Commission



Issue No. 19

March 2000

Train the Trainer Pays Off

In 1991, the State Ethics Commission embarked on a training program designed to reach all state employees at every level of state government. The success of this endeavor continues to be realized by the efforts of every state agency and office under the Commission's jurisdiction.

Trainers or contact persons from each agency and office are asked to show an orientation video and distribute two booklets containing the ethics rules. The contact persons file quarterly reports with the Commission indicating how many employees received ethics training during each quarter.

Faye Muegge, FSSA/Human Resources, is responsible for collecting this data from all FSSA facilities. Faye believes that ethics training benefits both the employee and the agency, "There are some things people don't think about until they go to training. They aren't clear as to what is ethical and what is not. Trained employees enhance the public's trust in us."

In addition to providing orientation, Carolyn Bullock, Labor Relations Specialist at the Adjutant General's Office, includes an ethics refresher course in the annual training program for employees scattered around the state.

"If the average person has not been in state government, they are not aware that ethics rules exist. They would have no idea that moonlighting and conflict of interest are out there," comments Carolyn on the importance of training new state employees.

Since many of the agency's employees have second jobs, Carolyn emphasizes the moonlighting and conflict of interest rules during orientation. Carolyn feels her agency benefits from the ethics training as well, "It saves time and keeps us out of the newspapers."

Besides orientation, the Ethics Commission offers classes for supervisors, managers and executives. Since 1991, over 55,000 state employees have received training in one or more of the above mentioned areas.

Upholding the public trust is the essence of the ethics rules. Abiding by the rules is part of every state employee's job. Thanks to the individual efforts of every state agency and office, employees around the state continue to receive the ethics training intended to guide them in fulfilling their state duties.

See, Thank You!, page 4

Departing Employee Leaps Before Looking

Six months after leaving state government, a former state employee admitted to conflict of interest and violating the post-employment restriction. The employee had been a family case coordinator in a county office of the Division of Family and Children.

In early September of 1998, the employee - then still with DFC - participated in a three-person contract review committee and recommended approval of the contract for fiscal year 1999 with a not-for profit vendor. Once the contract was in place, her official duties included making referrals to that and other organizations.

In March 1999, while still employed with DFC, the former employee became aware of two job openings at the not-for-profit organization. She expressed her interest, gave them a resume, and was quickly offered a position - which she eagerly accepted.

When she gave notice to her supervisor, it was suggested that she contact the Ethics Commission for an opinion. She did so, but only general information was exchanged. She did not mention that the job had already been offered and accepted.

See, Employee Leaps, page 3

Please Remember: This newsletter is recyclable.

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Staff Advisory Opinions Issued

This article briefly reviews questions recently addressed by the Ethics Commission staff. These opinions are not intended as a comprehensive analysis of the issue raised. For more information on whether and how this information may apply in another situation, contact your agency ethics officer or the State Ethics Commission.

Opinion I: Negotiating for Employment

Subject: A senior purchasing administrator for the state wants to apply for a job with a vendor who has a business relationship with her agency. The job would involve editing and proofreading proposals to be submitted to the state in response to future RFP's, not ones with which the state employee had any involvement in her position as a senior purchasing administrator.

The purchasing administrator's state duties include reviewing evaluation packets and agency recommendation against the information in the proposals themselves. Her supervisor actually approves or disapproves the agency recommendation. The employee does, however, make recommendations to her supervisor concerning approval/disapproval.

Question: Can the state employee negotiate for employment with a vendor who has a business relationship with her agency?

Conclusion: The employee would need to notify her supervisor of the negotiations and ask to be screened from her responsibilities (such as reviewing the vendor's RFP's and

making recommendations to her supervisor) concerning this particular vendor. (If the employee could not be screened, then she would not be able to negotiate for employment.) While negotiating for employment, the employee would be prohibited from taking any official action that would affect the financial interest of the vendor with whom she is seeking employment.

Opinion II: Conflict of Interest

Subject: An employee of a state office serves as a volunteer and president-elect of a not-for-profit organization that provides information, education and professional development opportunities to its members. The employee's state office annually contracts with the organization to provide funds for educational speakers at an annual joint food service training conference. The state employee receives no compensation for her services from the Association nor does she derive a profit from the contract. In her role as a state consultant for school and community nutrition, she has no authority to decide upon or award contracts for her Department.

Question: May the state employee use her state business address when acting in her capacity as president-elect of the Association?

Conclusion: The state employee should use her personal address when acting in her capacity as president-elect of the Association. She must keep her association activities entirely separate from her state employment functions in terms of state resources and time. 40 IAC 2-1-9(f) generally

prohibits state employees from using state property, personnel, facilities, etc., for any purpose other than for official state business. 40 IAC 2-1-9(g) mandates that a state employee shall not engage in work other than the performance of official duties during working hours.

Using the employee's state address for Association business would likely be a violation of one or both of the above rules; it would serve as an invitation to contact the employee at her state office to conduct Association business. Problems are remedied by use of the employee's personal address in Association matters and a general reminder about the above referenced rule sections.

This does not preclude employees from using state time and resources for agency-sanctioned professional associations. However, in this case, the organization is an agency contractor, which sets it apart from most professional associations.

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Issue No. 19 March 2000

Published by the
Indiana State Ethics Commission
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Employee Leaps

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When the employee began serious job discussions with the organization, a financial interest was created. From that moment forward, she should have screened herself from any DFC actions affecting the organization, but she continued making referrals until she left. Thus, a conflict of interest occurred.

When she began her new position with the organization, she worked with clients whom she had referred as a DFC employee. The post-employment restriction prohibits a former employee from representing or assisting a new employer on a "particular matter" for a period of one year from the date which the former employee no longer had responsibility for that matter as a state employee. Each referral she had made as a DFC employee was a particular matter. Her work on behalf of the organization with those clients violated the post-employment restriction.

In November, the former employee waived her right to a public hearing by signing an agreed settlement with the Ethics Commission. In addition to paying a civil penalty, the former state employee agreed not to represent or assist the not-for-profit corporation with duties related to those clients whom she referred to the organization for one (1) year from the time she participated in making the particular referral.

Visit our web site at:
www.state.in.us/ethics



"When leaving state government, a state employee must exercise caution on both sides of the door," said David Maidenberg, Commission Director. It is not uncommon for an employee to go to work for an agency contractor. But some people forget that job negotiations create a financial interest. Once that occurs, any further action as a state employee affecting that entity is a conflict of interest.

"On the other side of the door," added Maidenberg, "one must avoid representing or even assisting that employer on certain particular matters for one year" (see statute for definition of "particular matter"). This is a fairly narrow restriction - and problems can easily be avoided, as long as the employee and employer are armed in advance with knowledge of the law."

Employees thinking about leaving state government are encouraged to contact the Ethics Commission with any questions they might have. A guide entitled, *Leaving State Government*, can be found in the "Publications" section of our Web site: www.state.in.us.

The Indiana State Ethics Commission does not discriminate on the basis of disability in regard to ADA requirements. All printed materials will be made available in big print, braille or on audio cassette, upon request.

Text of Rules Cited in Former Employee Case

IC 4-2-6-9 Conflicts of financial interest

Sec. 9. A state officer or employee may not participate in any decision or vote of any kind in which the state officer or the employee or that individual's spouse or unemancipated children has a financial interest.

IC 4-2-6-11 Post-Employment Restriction

Sec. 11. (a) This section applies only: (1) to a former state officer or former employee; and (2) during the period that is twelve (12) months after the date the former state officer or former employee had responsibility for the particular matter. . . .

(c) As used in this section, "particular matter" means: (1) an application; (2) a business transaction; (3) a claim; (4) a contract; (5) a determination; (6) an enforcement proceeding; (7) an investigation; (8) a judicial proceeding; (9) a lawsuit; (10) a license; (11) an economic development project; or (12) a public works project. . . .

(d) A former state officer or former employee may not represent or assist a person regarding a particular matter involving a specific party or parties: (1) that was under consideration by the agency that was served by the state officer or employee; and (2) in which the officer or employee participated personally and substantially through: (A) a decision; (B) an approval; (C) a disapproval; (D) a recommendation; (E) giving advice; (F) an investigation; or (G) the substantial exercise of administrative discretion.



... to the following trainers and contact persons who have provided ethics training to employees within their agencies.

Carla McIntire
Governor's Office
Cathy McMasters
Department of Education
Eileen Barbour
Attorney General's Office
Pam Fritz
Auditor's Office
Marilyn Pfisterer
Secretary of State's Office
Betsy Burdick
Treasurer's Office
Susan Gordon
Board of Accounts
Carolyn Bullock
Adjutant General's Office
Robert Benson
OCA-ICWLA & RDC
Dan Steiner
ABC
Gary Haynes
Board of Animal Health
Emilita T. Tolentino
Arts Commission
Janice Grant
BMV
Susan Kennell
Budget Agency
Rebecca Dulin
Civil Rights Commission
Lee Webb
Community Svs. & Vol.
Ronalda Minnis
Commerce
Scarlett Siefert
Criminal Justice Institute
Jan Griffith
DPOC
Arlene Guedel
DNR

Faye Muegge
FSSA
Hannah Meiles
IDOA
Wayne Penrod
Environmental Adjudication
Janice Davis
Financial Institutions
Suellen Jackson-Boner
Governor's Planning Council
Jill Wulf
Indiana Gaming Commission
John Davis
Department of Health
Tanya Woodruff-Brown
Health Professions Bureau
Joan Dugan
Comm. for Higher Education
Judy Rippel
Historical Bureau
Marge Slauter
Horse Racing Commission
Char Roller
H.R. Investment Council
Janie Shaw
Insurance Department
Valarie Cole
INDOT
Ja-Deen Johnson
IURC
Dol Watkins
Labor
Charles Braun II
Law Enforcement Academy
Barney McEwen
State Library
David Bryant
Personnel
Angela Murphy
Professional Licensing
David Boes
Protection & Advocacy Svs.
David Duff
IDEM

Jodi White
Proprietary Education
Kathy Black
PERF
Rose Miller
Professional Standards Bd.
Patty Payne
Comm.on Public Records
Lori Fulks
Revenue
Bill Nicholson
SEMA/Fire & Bldg/PSTI
Michael Reedus
State Police
Pam King
Tax Commissioners Board
Jeremy Gooch
Teachers Retirement Fund
Marjorie Isley
Utility Consumer Counselor
Stephen Steed
Veterans' Affairs
Donald Russell
EERB

Donna Sturm
War Memorials Comm.
Joyce Howard
DWD
Darren Dye
Workers Compensation
Carla Phelps
IDFA
Mary Moriarty Adams
IHFA
Yvonne De Heflin
SSACI
Steffanie Rhinesmith
ITFA
Susan Williams
State Office Bldg. Comm.
Angela M. McDonald
IN Port Commission
Ron Mangus
Indiana Bond Bank
Kent Champagne
Intelnet Commission

Y2K Classes Open

Ethics Orientation

April 12	10:00-11:00 a.m.	Rm. 8, TC
June 13	10:00-11:00 a.m.	Rm. 6, TC

Ethics for Supervisors

April 18	10:00-12:00 p.m.	Rm. 6, TC
June 14	10:30-12:30 a.m.	Rm. 1, CC

Ethics for Managers

April 25	9:30-Noon	Rm. A, CC
June 21	9:30-Noon	Rm. A, CC

Classes are held in either the State Conference Center (CC) or the State Training Center (TC),
Indiana Government Center South,
402 W. Washington St., Indianapolis, IN 46204.

To register, contact Mary Hill at (317) 232-3850